



Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

May 29, 1979

Mr. Russell O. Bloyer  
Executive Director  
State Board of Directors for  
Community Colleges of Arizona  
1535 West Jefferson, Room 123  
Phoenix, AZ 85007

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**ARIZONA ATTORNEY GENERAL**

Re: I79-144 (R79-112)

Dear Mr. Bloyer:

This is in response to your letter of April 9, 1979, in which you asked whether an elected member of the governing board of a community college may also serve as acting president of the same college. Your letter further states that the individual who presently serves in both capacities receives no salary for either position.

A.R.S. § 15-676.01(C) states in part:

" . . . Employees of a community college or their spouses shall not be eligible to hold membership on the community college district governing board in the district in which such employee is employed. . . ."

A.R.S. § 15-679, which states the powers and duties of community college district governing boards, provides that the district board shall

" . . . [a]ppoint and employ a president."  
(Emphasis supplied)

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Construing these statutes together, it is apparent that the legislature regarded a community college president as an employee of the district and therefore intended to disqualify such person from membership on the governing board. However, the situation described in your letter involves an "acting president" and the issue becomes whether an "acting president" serving without compensation is likewise precluded from board membership.

Although A.R.S. § 15-676.01(C) speaks in terms of "employees" and such persons are generally compensated for their services, we believe that to give a narrow reading to the word "employee" would defeat the intent of the statute. While the individual might not be categorized as an employee for certain purposes, we are convinced that A.R.S. § 15-676.01 is intended to cover any person serving as president.

The president of a college is responsible for the daily administration of the institution. Were the same individual to serve as a board member, he would be reviewing his own decisions. For example, were he, as president, to terminate an employee, he would then be responsible for reviewing this termination when he functions as a board member. Even in matters other than direct appeals from decisions of the president, the district board might be impaired in critically evaluating the college administration when one of its members has an inherent interest in defending actions taken by himself or those for whom he is responsible.

Arizona follows the common law doctrine which precludes an individual from holding multiple public offices when the functions of such offices are mutually incompatible. See Perkins v. Manning, 59 Ariz. 60, 122 P.2d 857 (1942); Coleman v. Lee, 58 Ariz. 306, 121 P.2d 433 (1941). In Perkins v. Manning, *supra*, the Arizona Supreme Court discussed the tests for determining whether offices are incompatible and stated that one such test is

" . . . whether one office is subordinate to the other or has the power or duty of reviewing or regulating the conduct of the other." 59 Ariz. at 65, 122 P.2d at 859.

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The actions of the president of a community college are clearly subject to review and regulation by the district governing board. We therefore conclude that an individual who is an elected member of the governing board of a community college may not also serve as the acting president of the same college.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN  
Attorney General

BC/mm